STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Lighthouse TC Adult Inpatient
Petitioner **File No. 21-1776**

v

Liberty Mutual Fire Insurance Company
Respondent

Issued and entered
this 18th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 23, 2021, Lighthouse TC Adult Inpatient (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Liberty Mutual Fire Insurance Company (Respondent) that the cost of treatment, products, services, or accommodations that the Petitioner rendered was inappropriate under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on October 5, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 10, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 15, 2021.

The Department assigned an independent review organization (IRO) to analyze the cost issue relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 27, 2021. The Department issued a written notice of extension to both parties on January 11, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the reimbursement for psychotherapy services rendered on March 8, 2021, under Current Procedural Terminology (CPT) codes 90833 and 99213 with a GT modifier. These codes are described as psychotherapy and an established patient office visit or other outpatient service. In its *Explanation of Review* letter, the Respondent reimbursed the Petitioner based on "Fair Health Charge Benchmark Database (Fair Health) outpatient facility module based on the provider's geographic area" and noted that no additional information was submitted to support an additional allowance.

With its appeal request, the Petitioner submitted supporting documentation which stated that the services at issue were not paid in full due to the Respondent's reliance on Fair Health's facility module based on the provider's geographic area. The Petitioner stated that it considers its rates "reasonable based on what is needed to cover" its cost and that "all services provided should be paid in full."

In its reply, the Respondent's reaffirmed its position that the reimbursement payment was "based upon the Fair Health Charge Benchmark Database" and noted that the Petitioner's submitted bill "was not denied for utilization review or any other reason." The Respondent submitted *Explanation of Review* letters dated April 28, 2021, June 14, 2021, and October 4, 2021 for the at-issue treatments and referenced Fair Health in support.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate cost.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the Respondent's reimbursement amount was appropriate.

The IRO reviewer is a certified professional coder and biller and a certified professional medical auditor with AAPC certifications. The IRO reviewer explained that it reviewed the itemized billings submitted with the appeal and that the "billed charges were scrutinized with regard to appropriate billing conventions per Centers for Medicare & Medicaid Services (CMS) and AMA professional coding guidelines." The IRO reviewer explained that its recommendation is "based on the geographic zip zone where services were rendered." More specifically, the IRO reviewer noted:

> [The IRO reviewer] refers to Medicare, state payor repricing (i.e. Medicaid, Medical, etc.), state workers comp repricing and nationally accepted FAIR Health data" in its recommendation of appropriate repricing to usual and customary (U&C) in some cases as an industry standard benchmark. The FAIR Health Products represent charge benchmarks for various geographic areas based on the claims data contributed to FAIR Health at the 80th percentile.

The IRO reviewer stated that the Respondent paid an allowed amount of $117.60 for procedure code 90833 and $148.13 for procedure code 99213 for the date of service at issue. The IRO reviewer explained:

> Using the Fair Health Charge Benchmark Database outpatient facility module based on the provider's geographic area, the Respondent's reimbursement amount was appropriate, as the Respondent paid above the assigned usual and customary fee schedule amount of $41.25 [for code 90833]. Review of the Remittance Advice for this case finds [the Respondent] paid an allowed amount of $148.13 for code 99213 rendered on March 8, 2021. Using the Fair Health Charge Benchmark Database outpatient facility module based on the [Petitioner's] geographic area, the Respondent's reimbursement amount was appropriate, as the Respondent paid above the assigned usual and customary fee schedule amount of $127.02.

The IRO reviewer opined that "the Respondent's reimbursement amount for the CPT codes [at issue] was appropriate." The IRO reviewer recommended that the Director uphold the Respondent's determination that the cost of the treatments provided to the injured person on March 8, 2021 was appropriate under the Code.

IV. ORDER

The Director upholds the Respondent's determination dated October 5, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford